

**ENTERED**

February 28, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

JULIO E. LOZA,

Plaintiff,

VS.

SELECT PORTFOLIO SERVICING, INC., *et*  
*al.*,

Defendants.

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CIVIL ACTION NO. 7:22-CV-00010

**ORDER DENYING PLAINTIFF'S EMERGENCY APPLICATION FOR TEMPORARY  
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

Now before the Court is Plaintiff Julio Loza's Emergency Application for Temporary Restraining Order and Temporary Injunction (Dkt. No. 9), to which Defendants Select Portfolio Servicing, Inc. (SPS) and Deutsche Bank National Trust Company as Trustee, for Morgan Stanley ABS Capital 1 Inc. Trust 2005-HE7, Mortgage Pass-Through Certificates, Series 2005-HE7 (Trustee) (collectively, Defendants) have filed a response (Dkt. No. 10). Upon consideration of the same, the Court finds that Plaintiff fails to meet all of the criteria for obtaining the requested TRO and preliminary injunction against the foreclosure sale of his property. *See, e.g., Miss. Power & Light Co. v. United Gas Pipe Line Co.*, 760 F.2d 618, 621 (5<sup>th</sup> Cir. 1985) (listing criteria, and providing that "extraordinary remedy" of preliminary injunction "should only be granted if the movant has clearly carried the burden of persuasion" on all" prerequisites). Namely, Plaintiff fails to show a substantial likelihood of success on merits of his negligent misrepresentation and DTPA claims, and therefore his claims for injunctive relief, for the reasons briefed in Defendants' response. Plaintiff further fails to show that he faces a substantial threat of irreparable harm if the requested relief is not granted, in that potential exists for Plaintiff to bring suit for wrongful foreclosure once the sale has occurred. Even if no such option is available, Plaintiff also fails to

show that the harm of foreclosure outweighs the harm that the requested relief may cause to Defendants, who are defending against Plaintiff's third action to stop foreclosure of the same property, after having already obtained a judgment allowing the sale to proceed. For these reasons, the Court hereby **ORDERS** that Plaintiff's Motion is **DENIED**.

SO ORDERED February 28, 2022, at McAllen, Texas.

  
Randy Crane  
United States District Judge